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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,706	03/22/2004	Oliver Hurst-Hiller	MSFT-2828/306400.01	8718
41505 7590 01/15/2008 WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION) CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891			EXAMINER STACE, BRENT S	
			ART UNIT 2161	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/805,706

Applicant(s)

HURST-HILLER ET AL.

Examiner

Brent S. Stace

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7,8,10-14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7,8,10-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 May 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Remarks

1. This communication is responsive to the Amendment filed November 13th, 2007. Claims 1-3, 5, 7, 8, 10-14, and 16-18 are pending. In the Amendment filed November 13th, 2007, Claims 1, 5, 10, 11, 14, and 18 are amended, Claims 4 and 9 are canceled, and Claims 1, 5, 10, 11, 14, and 18 are independent claims. The examiner acknowledges that no new matter was introduced and the amended claims are supported by the specification. This action is made FINAL.

Response to Arguments

2. Applicant's arguments dated November 13th, 2007 with respect to Claims 1-5, 7-14, and 16-18 have been considered but are not persuasive.

3. As to Applicant's arguments with respect to Claims 1, 5, 10, 11, 14, and 18 for the prior art(s) allegedly not teaching or suggesting "identifying at least one non-selected search result that is generated by the search mechanism as part of said search but that is not selected by the user," the examiner respectfully disagrees. Davallou, paragraph [0031] with Davallou, paragraph [0023] is shown below as teaching this claimed limitation. In the citings, Davallou teaches accepting search result(s) from a non-selected (by the user) variety of results from different possible alternate queries.

4. As to Applicant's arguments with respect to Claims 1, 10, 11, and 18 for the prior art(s) allegedly not teaching or suggesting "acquiring the context-based user feedback

data describing said search by submitting one or more questions to the user regarding the non-selected search result," the examiner respectfully disagrees. Davallou teaches that questions are asked to the user confirming if the result(s) are the intended result(s). These questions are posed to the results regarding the non-selected search result(s) (by the user at least choosing to accept the result(s)).

5. Any other claims argued merely because of a dependency on a previously argued claim(s) in the arguments presented to the examiner, November 13th, 2007, are moot in view of the examiner's interpretation of the claims and art and are still considered rejected based on their respective rejections from prior Office action(s) (part(s) of recited below).

Response to Amendment

Claim Objections

6. In light of the applicant's respective arguments or respective amendments, the previous claim objections to the claims have been withdrawn.

Claim Rejections - 35 USC § 112

7. In light of the applicant's respective arguments or respective amendments, the previous 35 USC § 112 rejections to the claims have been withdrawn.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-3, 10-13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0107843 (Biebesheimer et al.) in view of U.S. Patent Application No. 2002/0156776 (Davallou).

For **Claim 1**, Biebesheimer teaches: "A method...said method comprising:

- collecting user information from a user having access to said search mechanism;
- [Biebesheimer, paragraph [0030]]

- monitoring of said search mechanism for user behavior data regarding an interaction of said user with said search mechanism to perform a search;
[Biebesheimer, paragraph [0042]]
- monitoring said search mechanism for search mechanism response data regarding said search; [Biebesheimer, paragraph [0042]]
- ...acquiring the context-based user feedback data describing said search..."
[Biebesheimer, paragraph [0029]].

Biebesheimer discloses the above limitations but does not expressly teach: "for improving performance of a search mechanism based on context-based user feedback data

- ...identifying at least one non-selected search result that is generated by the search mechanism as part of said search but that is not selected by the user;
- ...by submitting one or more questions to the user regarding the non-selected search result and receiving responses to said questions, said questions prompting the user for information regarding an extent to which a search result corresponds to a search request;
- using the context-based user feedback data to identify a problem with the search mechanism; and
- correcting the problem to improve performance of the search mechanism."

With respect to Claim 1, an analogous art, Davallou, teaches: "for improving performance of a search mechanism based on context-based user feedback data [Davallou, paragraph [0033]]

- ...identifying at least one non-selected search result that is generated by the search mechanism as part of said search but that is not selected by the user; [Davallou, paragraph [0031] with Davallou, paragraph [0023]]
- ...by submitting one or more questions to the user regarding the non-selected search result and receiving responses to said questions, said questions prompting the user for information regarding an extent to which a search result corresponds to a search request; [Davallou, paragraph [0031] with Davallou, paragraph [0023] with Davallou, paragraph [0033]]
- using the context-based user feedback data to identify a problem with the search mechanism; [Davallou, paragraph [0033]] and
- correcting the problem to improve performance of the search mechanism” [Davallou, paragraph [0033]].

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Davallou and Biebesheimer before him/her to combine Davallou with Biebesheimer because both inventions are directed towards using and searching for information in databases that use user data.

Davallou's invention would have been expected to successfully work well with Biebesheimer's invention because both inventions use databases using user data. Biebesheimer discloses a customer self service subsystem for classifying user contexts comprising the acquiring of context-based user feedback data describing a search. However, Biebesheimer does not expressly disclose asking questions about search performance of the database/results and receiving responses nor the explicit use of that

data to evaluate performance. Davallou discloses a phonetic self-improving search engine comprising submitting and querying the user about the search results returned.

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Davallou and Biebesheimer before him/her to take the questions, responses, and use from Davallou and install it into the invention of Biebesheimer, thereby offering the obvious advantage of making self-improving search engine with enhanced functionality to provide better search results.

Claim 2 can be mapped to Biebesheimer (as modified by Davallou) as follows:

"The method of claim 1, where said user information comprises one or more of the following:

- the speed of said user's connection to said search mechanism; [Biebesheimer, paragraph [0036]]
- the type of said user's connection to said search mechanism; [Biebesheimer, paragraph [0073]]
- a classification of said user's use of said search mechanism; [Biebesheimer, paragraph [0030] with Biebesheimer, paragraph [0073]]
- background information concerning said user; [Biebesheimer, paragraph [0030]]
or
- the language which said user is using to perform said search" [Biebesheimer, paragraph [0073] or Davallou, paragraph [0020]].

Claim 3 can be mapped to Biebesheimer (as modified by Davallou) as follows:

"The method of claim 1, where said step of collecting said user information comprises:

- requesting said user information from said user; [Biebesheimer, paragraph [0030]] and
- accepting responses from said user" [Biebesheimer, paragraph [0030]].

For **Claim 10**, Biebesheimer teaches: "A method...said method comprising:

- monitoring of said search mechanism for user behavior data regarding an interaction of the user having access to said search mechanism with said search mechanism to perform a search, [Biebesheimer, paragraph [0042]] said user behavior data comprising data concerning at least one member of a group comprising: requery performed by said user, [Biebesheimer, paragraph [0027]] dwell time on said results page, click time on said results page, position of result clicked, more results requested by said user, result dwell time result page size, or result page actions; [Biebesheimer, paragraph [0029] or Davallou, paragraph [0033]]
- monitoring said search mechanism for search mechanism response data regarding said search; [Biebesheimer, paragraph [0042]]
- ...acquiring context-based user feedback data..." [Biebesheimer, paragraph [0029]].

Biebesheimer discloses the above limitations but does not expressly teach: "...for improving performance of a search mechanism based on context-based user feedback data

- identifying at least one non-selected search result that is generated by the search mechanism as part of said search but that is not selected by the user;

- ...by submitting one or more questions to the user regarding the non-selected search result and receiving responses to said questions;
- using the context-based user feedback data to identify a problem with the search mechanism; and
- correcting the problem to improve performance of the search mechanism.”

With respect to Claim 10, an analogous art, Davallou, teaches: “...for improving performance of a search mechanism based on context-based user feedback data [Davallou, paragraph [0033]]

- identifying at least one non-selected search result that is generated by the search mechanism as part of said search but that is not selected by the user; [Davallou, paragraph [0031] with Davallou, paragraph [0023]]
- ...by submitting one or more questions to the user regarding the non-selected search result and receiving responses to said questions; [Davallou, paragraph [0031] with Davallou, paragraph [0023] with Davallou, paragraph [0033]] and
- using the context-based user feedback data to identify a problem with the search mechanism; [Davallou, paragraph [0033]] and
- correcting the problem to improve performance of the search mechanism” [Davallou, paragraph [0033]].

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Davallou and Biebesheimer before him/her to combine Davallou with Biebesheimer because both inventions are directed towards using and searching for information in databases that use user data.

Davallou's invention would have been expected to successfully work well with Biebesheimer's invention because both inventions use databases using user data. Biebesheimer discloses a customer self service subsystem for classifying user contexts comprising the acquiring of context-based user feedback data describing a search. However, Biebesheimer does not expressly disclose asking questions about search performance of the database/results and receiving responses nor the explicit use of that data to evaluate performance. Davallou discloses a phonetic self-improving search engine comprising submitting and querying the user about the search results returned.

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Davallou and Biebesheimer before him/her to take the questions, responses, and use from Davallou and install it into the invention of Biebesheimer, thereby offering the obvious advantage of making self-improving search engine with enhanced functionality to provide better search results.

Claims 11-13 encompass substantially the same scope of the invention as that of Claims 1-3, respectfully, in addition to a system and some elements for performing the method steps of Claims 1-3, respectfully. Therefore, Claims 11-13 are rejected for the same reasons as stated above with respect to Claims 1-3, respectfully.

Claim 18 encompasses substantially the same scope of the invention as that of Claim 10, in addition to a system and some elements for performing the method steps of Claim 10. Therefore, Claim 18 is rejected for the same reasons as stated above with respect to Claim 10.

11. Claims 5, 7, 8, 14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2002/0156776 (Davallou) in view of U.S. Patent No. 6,434,547 (Mishelevich et al.).

For **Claim 5**, Davallou teaches: "A method for improving performance of a search mechanism based on context-based user feedback data, [Davallou, paragraph [0033]] said method comprising:

- monitoring of said search mechanism for user behavior data regarding an interaction of a user having access to said search mechanism with said search mechanism to perform a search; [Davallou, paragraph [0033]]
- monitoring said search mechanism for search mechanism response data regarding said search; [Davallou, paragraph [0033]]
- ...identifying at least one non-selected search result that is generated by the search mechanism as part of said search but that is not selected by the user; [Davallou, paragraph [0031] with Davallou, paragraph [0023]]
- acquiring context-based user feedback data describing said search by submitting one or more questions to the user regarding the non-selected search result, said context-based user feedback data comprising information regarding an extent to which a search result corresponds to a search request, said context-based user feedback data further comprising said explicit feedback data if said explicit user feedback data was collected; [Davallou, paragraph [0031] with Davallou, paragraph [0023] with Davallou, paragraph [0033]]

- using the context-based user feedback data to identify a problem with the search mechanism; [Davallou, paragraph [0033]] and
- correcting the problem to improve performance of the search mechanism” [Davallou, paragraph [0033]].

Ruppelt discloses the above limitations but does not expressly teach:

- “...determining if a snooze request specifying a time period to suspend collection of explicit feedback data is in effect from said user, and, if not, collecting explicit feedback data from the user.”

With respect to Claim 5, an analogous art, Mishelevich, teaches:

- “...determining if a snooze request specifying a time period to suspend collection of explicit feedback data is in effect from said user, and, if not, collecting explicit feedback data from the user” [Mishelevich, cols. 8-9, lines 62-5 with Mishelevich, cols. 10-11, lines 63-22 with Davallou, paragraph [0033]].

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Mishelevich and Davallou before him/her to combine Mishelevich with Davallou because both inventions are directed towards prompting users for information.

Mishelevich's invention would have been expected to successfully work well with Davallou's invention because both inventions use computers for data input. Davallou discloses a phonetic self-improving search engine (title) comprising asking questions regarding the user's search. However, Davallou does not expressly disclose a snooze request with a time period to suspend data collection. Mishelevich discloses a data

capture and verification system (title) comprising elements and actions equating to “determining if a snooze request specifying a time period to suspend collection of explicit feedback data is in effect from the user, and, if not, collecting explicit feedback data from the user.”

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Mishelevich and Davallou before him/her to take the pausing from different inputs and rhythm/rates from Mishelevich and install it into the invention of Davallou, thereby offering the obvious advantage of facilitating data entry.

Claim 7 can be mapped to Davallou (as modified by Mishelevich) as follows:

“The method of claim 5, where said step of determining if a snooze request is in effect from said user comprises:

- determining if said user has issued a snooze request; [Mishelevich, cols. 8-9, lines 62-5 with Mishelevich, cols. 10-11, lines 63-22] and
- determining if an associated time period associated with said snooze request has elapsed” [Mishelevich, cols. 8-9, lines 62-5 with Mishelevich, cols. 10-11, lines 63-22].

Claim 8 can be mapped to Davallou (as modified by Mishelevich) as follows:

“The method of claim 5, further comprising:

- storing target data concerning a target value for how often explicit feedback should be collected for searches; [Mishelevich, col. 11, lines 5-10] and

- allowing explicit feedback to be collected only if collecting the explicit feedback would not result in exceeding said target value for how often explicit feedback is collected" [Mishelevich, cols. 10-11, lines 63-22 with Davallou, paragraph [0033]].

Claim 14 encompasses substantially the same scope of the invention as that of Claim 5 in addition to a system and some elements for performing the method steps of Claim 5. Therefore, Claim 14 is rejected for the same reasons as stated above with respect to Claim 5.

Claims 16 and 17 encompass substantially the same scope of the invention as that of Claims 7 and 8, respectfully, in addition to a system and some elements for performing the method steps of Claims 7 and 8, respectfully. Therefore, Claims 16 and 17 are rejected for the same reasons as stated above with respect to Claims 7 and 8, respectfully.

12. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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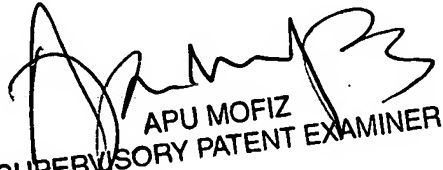
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent S. Stace whose telephone number is 571-272-8372 and fax number is 571-273-8372. The examiner can normally be reached on M-F 9am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu M. Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brent Stace *b.s.*


APU MOFIZ
SUPERVISORY PATENT EXAMINER